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UNITED STATES-CANADA FREE-TRADE AGREEMENT BIENNIAL REPORT

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A REPORT PERTAINING TO THE IMPLEMENTATION AND EFFECTIVENESS OF OPERATION OF THE UNITED STATES-CANADA FREE-TRADE AGREEMENT [FTA] IN ITS FIRST 2 YEARS, PURSUANT TO PUBLIC LAW 100-449, SECTION 304(f) (102 STAT. 1875)

JANUARY 30, 1991.—Message and accompanying papers referred to the Committee on Ways and Means and ordered to be printed

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To the Congress of the United States:

Pursuant to section 304(f) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (Public Law 100–449; 102 Stat. 1875), I am pleased to transmit the attached report pertaining to the implementation and effectiveness of operation of the United States-Canada Free-Trade Agreement (FTA) in its first 2 years.

GEORGE BUSH.

THE WHITE HOUSE, *January 30, 1991.*

THE UNITED STATES-CANADA FREE-TRADE AGREEMENT

BIENNIAL REPORT

A REPORT FROM THE PRESIDENT

TO THE CONGRESS

Under Section 304(f)

of the

United States-Canada Free-Trade Agreement

Implementation Act

January 1991

U.S.-CANADA FTA

BIENNIAL REPORT

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U.S.-CANADA FREE-TRADE AGREEMENT

BIENNIAL REPORT

INTRODUCTION

The United States-Canada Free-Trade Agreement (FTA) establishes the world's largest and most comprehensive bilateral free-trade area. The FTA entered into force on January 1, 1989, following approval and implementation of its terms by the Congress in the United States-Canada Free-Trade Agreement Implementation Act of 1988, Public Law Number 100-449 (the "Act"). This report, submitted to Congress in accordance with section 304(f) of the Act, concerns the first two years of operation of the FTA.

This report is organized according to the major topics addressed by the FTA, but some preliminary comments are appropriate by way of introduction.

Implementation of the FTA has proceeded smoothly over the past two years. Canada and the United States enacted and have put into effect broad implementing legislation and regulations necessary to meet the obligations of the Agreement. Traders and investors on both sides of the border have moved to take advantage of the many opportunities opened by the progressive reduction and elimination of trade and investment barriers. The many bilateral institutional mechanisms of the FTA have proven useful in resolving a number of issues before they could become serious disputes. The outlook is for further growth as the staged removal of impediments continues during the ten-year, phase-in period.

Over $200 billion of goods and services flowed between the United States and Canada in 1989. In that same year, bilateral trade in goods alone reached $167 billion, an increase of about 9 percent over 1988. In the first six months of 1990, trade equalled $89.6 billion (preliminary data), an increase of 2.4 percent over the comparable period in 1989, despite a slowdown in both economies. In 1989 U.S. shipments to Canada accounted for more than 20 percent of the value of all U.S. exports of merchandise, and nearly equalled our exports to all EC countries combined.

Given the significance of our relationship with Canada and the scope of the FTA, there were remarkably few disputes that arose during the first two years of implementation of the Agreement. Those disputes that did arise generally concerned issues that pre-dated the FTA and for which the FTA did not change the substantive trading rules. That was the case with the only two disputes that were referred to panels under the inter-governmental dispute settlement mechanism of Chapter 18 of the FTA. Those disputes involved Canadian restrictions affecting

salmon and roe herring and U.S. minimum size requirements for lobsters. The provisions for binational review of final determinations under national anti-dumping and countervailing duty laws have been implemented in a responsible manner, and likewise helped reduce points of bilateral friction.

Though much was achieved in the FTA, neither the United States nor Canada obtained all it sought in the original negotiations. The Canadian Minister for International Trade, the Honorable John Crosbie, and the U.S. Trade Representative, Ambassador Carla A. Hills, agreed in their capacity as principal representatives on the FTA's Trade Commission to establish a number of working groups and advisory bodies to consider ways to facilitate operation of the Agreement and to examine unresolved issues as appropriate.

This process has indeed worked to facilitate trade. Some of the work, such as that involving customs and agricultural standards, is quite technical. Such work is nonetheless important in clearing obstacles and opening opportunities for cross-border commerce.

Probably the most notable success in terms of trade liberalization, however, is the agreement in May 1990 to accelerate elimination of duties on over 400 products accounting for almost $6 billion in bilateral trade. This accelerated elimination of tariffs was achieved by, for example, immediately eliminating duties on particular products that were previously scheduled to be phased out over 5 or 10 years. It is particularly encouraging that all of these reductions were carried out with the cooperation and strong support of affected private sector interests on both sides of the border, the Canadian Government, and Congress. This program has been continued, and it is expected that a second cycle of agreed tariff reductions should be ready for agreement and proclamation later in 1991.

While the United States and Canada have made some bilateral progress in certain issues such as the effort to reach a common performance standard for certain plywood, in other areas there has been less progress than we would have preferred. It is disappointing, for example, that Canada has not agreed to increase the required value content requirement of the rule of origin for automotive products, notwithstanding the recommendation of the vast majority of U.S. and Canadian members of the Select Panel on Automotive Trade.

With respect to some important issues, such as investment, agriculture, subsidies, intellectual property rights, and services, both the United States and Canada have focussed their respective negotiating efforts on the multilateral trade negotiations under the Uruguay Round. As the latter negotiations

draw to a conclusion, we will be evaluating the results and pursuing the possibilities for further progress on a bilateral basis.

Another avenue through which further U.S.-Canadian cooperation on trade is being pursued involves a potential Free Trade Agreement linking the U.S., Mexico and Canada. Canada is currently involved in exploratory discussions with the U.S. and Mexico to determine whether there is a basis for Canadian participation in negotiations on the schedule proposed for the U.S.-Mexico FTA.

In sum, the United States shares a vast and excellent trading relationship and a rich array of institutions for cooperation with Canada. With a shared commitment to the FTA and with continued hard work, the United States and Canada stand to improve further upon this mutually beneficial relationship.

BIENNIAL REPORT

TARIFFS

EFFECTIVENESS

OVERVIEW:

- The FTA provides that all dutiable goods will have their tariffs eliminated according to three primary schedules beginning January 1, 1989: immediately; in five equal, annual reductions resulting in duty-free status January 1, 1993; and in ten equal, annual reductions resulting in duty-free status January 1, 1998. The FTA also permits the accelerated elimination of duties on specific items where both parties agree. The phased removal of all tariffs on goods traded between the U.S. and Canada is being implemented as initially negotiated (with the exception of certain wood items in accordance with Article 2008 of the FTA, see Outstanding Issues below), or faster where both countries agree.

ACCOMPLISHMENTS:

- The second stage of initially negotiated tariff cuts became effective January 1, 1990 and the third stage is scheduled to be implemented on January 1,1991. U.S. and Canadian businesses and consumers see tariff removal as one of the major benefits of the FTA.

- Tariffs on over 400 products were eliminated more quickly, effective April 1, 1990, as a result of the first round of accelerated tariff elimination negotiations. Total annual U.S. exports affected by this round of accelerated tariff reduction are estimated at $3 billion. The products were selected for accelerated tariff reduction based on petitions from, and wide support in, the U.S. and Canadian business community, and the reductions were carried out in accordance with section 103 of the FTA Implementation Act of 1988.

OUTSTANDING ISSUES:

- The United States and Canada continue to withhold the implementation of the staged tariff reductions on certain wood items in accordance with Article 2008 of the FTA (see section on Plywood Standards).

FUTURE PROSPECTS:

- The phased elimination by 1998 of all bilateral tariffs not

subject to accelerated reduction will continue to be implemented according to the schedule contained in the FTA.

- The second round of accelerated tariff elimination negotiations generated over 500 petitions from U.S. and Canadian industry. Negotiations to reach agreement on which products will receive accelerated tariff removal are underway with implementation expected in mid-1991. The FTA provides for accelerated tariff reduction negotiations in Article 401.5.

IMPLEMENTATION

- Both governments have ensured that all the necessary Customs procedures and documentation are in place to smoothly implement FTA tariff reductions.

BIENNIAL REPORT

RULES OF ORIGIN

EFFECTIVENESS

OVERVIEW:

- Rules of origin are used to assign a nationality to goods moving in international commerce so that laws that treat goods differently according to their national origin can be applied.

- In response to business concerns, U.S. and Canadian negotiators developed for the FTA totally new rules of origin based on the Harmonized System nomenclature, which both countries have now adopted as the basis for their tariff laws. This is the first experience of both countries in using a rule of origin based on tariff classification.

ACCOMPLISHMENTS:

- Two years into the FTA, there is broad agreement among U.S. and Canadian customs administrations and private sector parties (customs brokers and importers) that the FTA rules of origin are predictable and transparent.

- Sensitive industries (textiles, apparel, and steel in the U.S.) appear to be satisfied that the rules of origin are operating to prevent goods merely transshipped from third countries from obtaining preferential treatment.

- U.S. and Canadian Government representatives have worked together well to resolve several minor issues regarding the administration of the FTA. For example:

  -- U.S. agreed to a Canadian request to allow blanket certification to be valid for one year, rather than six months as originally proposed.

  -- U.S. dropped a condition that mortgage loans on real property be originated by U.S. or Canadian chartered financial institutions in order for the interest on that loan to be counted toward the 50 percent value-content rule.

OUTSTANDING ISSUES:

- Questions have been raised regarding whether interest costs generally (other than interest on mortgage loans on real property, which is expressly allowed by the FTA) should be

allowed to be counted as "direct costs of processing or assembling" for the purpose of meeting the 50 percent value-content requirement for preferential treatment.

- Two changes to the rules (a 60-percent domestic content requirement for automotive products and an adjustment to rules for vegetable oils, such as soybean oil) are sought by interested U.S. parties. A change to the vegetable oil rule of origin is still under discussion, while the Canadian Government has rejected an increase to 60 percent in the automotive rule. (See section on Trade in Automotive Goods.)

FUTURE PROSPECTS:

- In view of the difficulty encountered with the value-content element of the rules of origin, the U.S. intends to consult with the Congress and private sector interests about alternative solutions that could meet the intent of those rules with less administrative complexity.

- The new rules devised for the FTA govern origin only for the purpose of determining eligibility for preference under the FTA. Other purposes for which origin must be determined (country of origin marking, quota and VRA status) are still determined on a case-by-case basis by customs administrations. Because this occasionally leads to different origin determinations on the same goods, it may be desirable to consider making the FTA rules, with appropriate modifications where required, govern origin for all purposes. The U.S. is developing a proposal to this effect.

IMPLEMENTATION

- Both countries have issued instructions to customs officers, conducted public training programs, and published informational documents. Formal U.S. Customs regulations are under development and will be published early in 1991.

- Working groups established to ensure harmony in interpreting and administering the FTA are meeting on a regular basis, and have achieved a high degree of uniformity in FTA administration.

BIENNIAL REPORT

CUSTOMS ADMINISTRATION

EFFECTIVENESS

OVERVIEW:

- Section 406 and Annex 406 of the FTA provide for cooperation between U.S. and Canadian Customs Administrations in four areas:
  - -- Declaration of origin for imported and exported goods.
  - -- Administration (records and audits) and enforcement.
  - -- Rules of origin (consultation on uniform application and appeals procedures).
  - -- Facilitation (harmonization of documents, exchange of statistics, and consultation on changes to customs administration).

ACCOMPLISHMENTS:

- A consensus document specifying agreement on interpretation and uniform application of twenty-five various classification and definitional issues was signed by both Customs Services.
- It was agreed that on the Customs form 353 "Certificate of Origin", block "3" would be blank unless it was the exporter's intention to restrict the applicability to one or more buyers, and block "4" would be completed with the statement "Available to U.S. Customs upon Request."
- Effective November 30, 1990, U.S. exporters no longer need to file with U.S. Customs the Shippers Export Declaration (SED) for most exports to Canada. Canadian Customs, also, no longer requires the filing of SEDs when exporting to the U.S.
- Under the Statistical Exchange Program, export statistics are now being exchanged between Canada and the U.S.

FUTURE PROSPECTS:

- It is anticipated that the Final Rules implementing the duty preference provisions of the U.S.-Canada FTA will be published in the Federal Register during the first half of 1991.

- The U.S.-Canada FTA Customs Administration Working Group will continue working toward consensus on problem areas concerning the interpretation of the Rules of Origin.

IMPLEMENTATION

- U.S. and Canadian Customs Services have met quarterly to resolve problems and exchange information.

- All U.S. blanket certificates, i.e., valid certificates of origin issued for identical goods covering more than one shipment of the same U.S. exporter, completed on or after June 1, 1990, now have a valid period of 12 months.

- Nine FTA fact sheets have been issued recently, explaining changes and procedures. Five of these were to explain the method of cost distribution when using the 50% rule. In total, twenty-eight fact sheets have been issued to U.S. Customs field offices and the public.

BIENNIAL REPORT

TECHNICAL STANDARDS

EFFECTIVENESS

OVERVIEW:

- The framework established by this Chapter has facilitated cooperation and dialogue among standards-related interests in both the governments and private sectors. However, full implementation of the provisions covering "Technical Standards" for industrial products has been slow.

ACCOMPLISHMENTS:

- Dialogue between private sector interests in the United States and Canada has been constructive and focused on ways to fulfill the objectives of the Agreement--e.g., harmonization of standards and product approval procedures.

- Ad hoc discussions are also taking place between technical experts in both governments on ways to harmonize regulations. The FTA has created a positive climate for cooperation and exchange of information on problems faced with third countries (e.g., EC-92 and Uruguay Round discussions).

OUTSTANDING ISSUES:

- The Standards Council of Canada (SCC) has made legal amendments to allow for accreditation of U.S. testing and certifying firms under its national system. However, despite several pending applications, no U.S. firm has been granted accreditation under the scheme. We believe this is a resource problem, but are anxious to see positive action (i.e., recognition of a U.S. laboratory).

- Neither the U.S. Department of Commerce, nor the SCC, has yet obtained funding for notification of state/provincial standards-related measures; such notification is encouraged, but not required, under Chapter 6.

FUTURE PROSPECTS:

- The USG and GOC met to discuss overall implementation on November 14, 1990. As a result, both sides agreed to exchange further information on ideas for expanding cooperation and on specific areas for harmonization of standards and product approval procedures, accreditation and acceptance of test data.

IMPLEMENTATION

- Weights and Measures officials from both the U.S. and Canada have met to establish a framework for coordination of similar legal requirements for weights and measures.

- The EPA and FDA have coordinated certain regulations with their Canadian counterparts.

- The U.S. Omnibus Trade and Competitiveness Act of 1988 designates the metric system as the preferred system for U.S. trade and commerce.

- Examples in the private sector include:

  -- The recent publication of a harmonized standard for heating, ventilating, air-conditioning and refrigeration equipment intended for residential, commercial and light industrial applications by Underwriters Laboratories (UL) and the Canadian Standards Association (CSA). A draft harmonized standard for compressors is also under review.

  -- The American Society for Testing and Materials (ASTM) and CSA are cooperating in the area of training and joint publications.

  -- The U.S. National Fire Protection Agency (NFPA) and the Electrical and Electronic Manufacturers Association of Canada (EEMAC) are studying the joint development of electrical code provisions.

BIENNIAL REPORT

AGRICULTURE

EFFECTIVENESS

OVERVIEW:

- The FTA has facilitated agricultural trade between the U.S. and Canada in its first two years of operation, with U.S. agricultural exports to Canada in 1989 increasing by approximately 7 percent. As the provisions of the FTA are more fully implemented, especially those concerning tariff levels, such measurable trade benefits are expected to continue to demonstrate growth.

- The FTA has been effective in eliminating Canadian import licensing requirements on oats and oat products. Under the FTA, once the U.S. level of support is determined to be equal to or less than the Canadian support level for the same grain, the Canadian Wheat Board (CWB) must relinquish its import licensing authority.

- The FTA has also been effective as a vehicle for exchanging information. Most, but not all, of these exchanges are taking place in the nine agricultural technical working groups, established to harmonize the two countries' respective technical standards and regulations. Nine groups were established in the areas of animal and plant health, fish and fishery products, meat and poultry inspection, fresh produce inspection, veterinary drugs, packaging and labeling, pesticides, and food additives.

ACCOMPLISHMENTS:

- Grain Import License Elimination: The CWB's import license requirement for oats and oat products was eliminated in 1989. This provision of the agreement could come into play in 1991 if, as expected, the prescribed calculations show that U.S. support levels for wheat are lower than Canadian support levels. This would require that Canada eliminate the CWB's import licensing requirements for wheat and wheat products.

- Accelerated Tariff Reductions: In 1990, tariffs were eliminated on some 27 food and agricultural items, valued at $200 million in annual bilateral trade. Additional accelerated tariff eliminations are presently being considered which could take effect in mid-1991.

- Snapback Provision: Under the FTA, a safeguard mechanism is in place for fruit and vegetable producers on both sides of the border. When imports increase during periods of sharp reductions in prices, and only during the period that those conditions persist, either country may increase its tariff on a specific product to the level that existed prior to the implementation of the FTA. Both sides have established mechanisms for carrying out this provision and have met to review its implementation. To date, snapback has been invoked only once, in April 1990, on asparagus by the Government of Canada. The action lasted two weeks, at the end of which the Canadian tariff was returned to its lower, FTA level.

OUTSTANDING ISSUES:

- Grain Pricing Transparency: The U.S. remains dissatisfied with the lack of information on CWB transactions, especially export sales. Without adequate information on CWB sale prices in the U.S. and third-country markets, we cannot verify Canadian compliance with FTA provisions in this area.

- Border Meat Inspection: In February 1990, Secretary Yeutter and Canadian Agriculture Minister Mazankowski announced a pilot program which would eliminate, for one year, all border reinspection requirements for meats crossing the border. Implementation of this program has been delayed due to U.S. regulatory review requirements, as well as concerns expressed by members of Congress and the public on both sides of the border.

FUTURE PROSPECTS:

- The nine Technical Working Groups will continue to review national agricultural standards and regulations and identify areas for harmonization.

- The levels of support for wheat and barley will be recomputed and compared in the Spring of 1991.

IMPLEMENTATION

- See accomplishments above.

STATUS OF SECTION 304 NEGOTIATIONS:

- Exclusion from Western Grain Transportation Act (WGTA) of Transport Rates for Goods Shipped via East Coast Ports for Consumption in the U.S.

  -- The United States, on several occasions, sought the elimination of the WGTA support for goods shipped via

East Coast ports for consumption in the U.S. The Canadians were unwilling to consider any modifications in the distribution of WGTA benefits, other than those included in the FTA on the grounds that these are domestic subsidies, which the United States also maintains.

o Negotiation of Limitation on Potato Trade

-- Section 304 authorizes the negotiation of restrictions on potato imports and exports. To date, the U.S. Government has not initiated negotiations concerning the limitation of potato trade between the United States and Canada.

BIENNIAL REPORT

ALCOHOL

EFFECTIVENESS

OVERVIEW:

- The FTA provides, in Chapter 8, for national treatment in the sale and distribution of wine and distilled spirits and for the phase out of discriminatory markups on U.S. wine and distilled spirits in Canada.

- The FTA requires that new measures taken with respect to beer in Canada shall meet national treatment obligations. Canadian beer practices predating October 4, 1987 are excluded from the national treatment obligations of the FTA.

- The Canadian Provinces have made numerous changes as a result of the FTA, but new provincial measures have limited benefits for U.S. exporters.

ACCOMPLISHMENTS:

- The volume of U.S. exports of beer, wine, and distilled spirits increased following implementation of the FTA. However, U.S. beer exports fell sharply in the first three-quarters of 1990 and wine exports declined in the first half of 1990, particularly in Ontario and British Columbia.

- U.S. exports of bottled wines represented 7 percent of the Canadian bottled wine market in 1989 as compared to 3 percent in 1987.

- The Canadian Provincial Liquor Boards eliminated discriminatory markups on distilled spirits and implemented a 50 percent decrease in the difference between markups on provincial and U.S. wines. Ontario resisted implementing the initial cut in the wine and distilled spirits markup until April 1989.

- The number of U.S. wines listed for sale in provincial liquor boards has improved, particularly in British Columbia (approximately 75 U.S. wines were listed in the Summer of 1990 as compared to 25 U.S. wines before implementation of the FTA).

OUTSTANDING ISSUES:

- The provincial liquor boards maintain artificially high prices on popularly priced U.S. wines and beer, thereby protecting Canadian products.

  -- Initiation by the provincial liquor boards of cost-of-service charges, including minimum fees, has added costs to U.S. products. These charges, which are ad valorem or flat depending on the province, appear in some cases to affect U.S. products in a discriminatory manner. The cost-of-service charges imposed by some provincial liquor boards appear extremely high, as compared to those incurred commercially.

  -- Some provinces have imposed or maintain minimum selling prices for beer and wine, which has a negative effect on sales volume for low cost U.S. producers.

- British Columbia has not permitted U.S. beer to be sold in private outlets (Licensee Retail Stores) despite a change in its stated policy. In addition not all discriminatory charges on U.S. wines were eliminated after implementation of the FTA.

- Quebec's minimum sales quota and consignment system for new listings are perceived as having created disguised barriers to trade in U.S. wines. Wines already available in the market do not have to abide by the consignment sales system.

- Long delays in notification of approval of wine listings constricts opportunities for U.S. wineries to market new vintages in an expedient manner.

- Provincial reordering and restocking policies for U.S. beer and wine effectively keep products off the market, make it difficult to meet minimum sales levels and undermine promotional activities.

- Provincial authorities failed to demonstrate that the initial base differential for the phase out of discriminatory markups on wine were calculated as required.

- The Canadian Government has objected to provisions of the Omnibus Budget Reconciliation Act of 1990 that provide for preferential excise tax treatment of small U.S. wineries and breweries.

FUTURE PROSPECTS:

- The U.S. Government is reviewing the options available to it under the dispute settlement procedures of Chapter 18 of the FTA with regard to Canadian practices restricting U.S. exports of wine.

- A pending U.S. investigation under Section 301 requires the United States to take action on Canadian liquor board practices relating to beer by December 1991. At the request of the United States, these issues might be subject to review in 1991 by a GATT dispute resolution panel.

IMPLEMENTATION

- Provinces have implemented required reductions in discriminatory markups and provided audits of the cost-of-service differential applied to imports.

- British Columbia provided access for U.S. wines in its Licensee Retail Stores when it instituted a policy to permit non-monopoly stores to supply a greater segment of the market.

- Provinces established appeals procedures to review rejected listing applications.

- The Canadian Government acted to provide recognition of U.S. Bourbon as a distinctive product, and to eliminate the domestic content requirement applied to bulk distilled spirits imports from the United States.

BIENNIAL REPORT

ENERGY

EFFECTIVENESS

OVERVIEW:

- U.S.-Canada trade in energy has been largely free of impediments for the past several years and is of significant benefit to both countries, with two-way trade having equalled $9.5 billion in 1989.

- The energy chapter of the U.S.-Canada Free-Trade Agreement (FTA) represents a commitment by the governments of both countries to the freest possible trade in energy and energy products and provides a stable and secure trade environment for making energy decisions over the longer term.

- Over the past year, a number of problems have been resolved, and the general state of our bilateral energy relationship is good, indicating the FTA's energy provisions are working well.

ACCOMPLISHMENTS:

- Canada announced a change in its uranium processing policy, permitting the export of Canadian unprocessed uranium to the United States for upgrading in U.S. plants.

- The U.S. Congress passed a law which eliminated the Superfund oil tax differential between domestic and imported petroleum, thus resolving the pending GATT case.

- Federal regulatory bodies in both the U.S. and Canada are taking steps to streamline regulatory procedures for authorizing natural gas and electricity imports and exports.

- The Bonneville Power Administration and British Columbia Hydro continue to work together and with other regional utilities to strengthen and improve the West Coast electric power system in a mutually beneficial manner.

- While at times there were concerns expressed by each country over a regulatory or legislative action taken or proposed by the other, lines of communication remained open and conflicts were resolved without having to resort to the FTA's dispute settlement mechanism.

FUTURE PROSPECTS:

- We will continue our formal and informal discussions and consultations across a broad range of energy issues; these were initiated in the early 1980's and cover most issues and agencies involved in energy trade.

- The interrelationship between energy and the environment, and the manner in which environmental concerns are being integrated into energy policy-making on both sides of the border, are areas of great interest.

IMPLEMENTATION

- See accomplishments above.

BIENNIAL REPORT

TRADE IN AUTOMOTIVE GOODS

EFFECTIVENESS

OVERVIEW:

- The provisions of this chapter are working satisfactorily; trade in automotive products has continued to increase and move smoothly.

- The Select Automotive Panel recommended increasing the value content to 60 percent in the FTA rule of origin. The United States has proposed this step repeatedly, but the Canadians have not agreed.

ACCOMPLISHMENTS:

- Reduction of automotive tariffs as well as accelerated tariff reductions on certain automotive products continued according to schedule. The phase-out of the Canadian import restriction on used vehicles increased U.S. used car dealers' access to the Canadian market. The Canadian Government eliminated, on January 1, 1989, the waiver of duties conditional on automotive exports to the U.S., as required in the FTA.

- The Automotive Select Panel has met three times and has commissioned two studies; one on the overall competitiveness of the North American automotive industry and the second on the likely impact of any change in the FTA rule-of-origin for automotive trade. The Panel recommended increasing the rule-of-origin from 50 to 60 percent for automotive products and has begun work on the mandated competitiveness study of the North American automotive industry.

OUTSTANDING ISSUES:

- The Government of Canada continues to decline our requests for copies of production-based duty remission MOU's (memoranda of understanding between the GOC and Hyundai, Honda and Toyota). This lack of information impedes the Administration's ability to monitor Canadian compliance with Article 1002, Section 1. The U.S. and Canada continue to discuss the issue of monitoring Canadian compliance.

- The Canadian Government has rejected numerous requests by the U.S. Government to enter into negotiations to increase the value content from 50 to 60 percent in the automotive rule of origin.

- Questions have been raised regarding the inclusion of interest costs generally (other than interest on mortgage loans on real property, which is expressly allowed by the FTA) in the "direct costs of processing or assembling" for the purpose of meeting the 50 percent value content requirement for preferential treatment under the FTA.

FUTURE PROSPECTS:

- The Select Panel will continue its deliberations, complete its mandated competitiveness study and issue recommendations.

- Staged elimination of tariffs and any accelerated eliminations of tariff staging agreed upon will be implemented as set forth in the Agreement.

- The U.S. will continue to monitor Canadian compliance with obligations under Article 1002 regarding the automotive production-based duty remission program.

IMPLEMENTATION

- Tariff removal, the elimination of duty waivers conditional upon exports to the United States, and the phase-out of the embargo on the importation of used vehicles to Canada are proceeding as provided for in the FTA.

STATUS OF SECTION 304 NEGOTIATIONS:

- The Administration continues to press the Canadian Government to agree to an increase in the value content requirement in the rule-of-origin from the current 50 percent to 60 percent; to date, Canada has shown no interest. Canadian officials have stated they would not agree to an increase in the rule-of-origin "unless it clearly benefitted the Canadian industry and improved its competitiveness."

BIENNIAL REPORT

GOVERNMENT PROCUREMENT

EFFECTIVENESS

OVERVIEW:

- The FTA opens more federal government procurement to non-discriminatory competition between U.S. and Canadian companies. Eligible procurement includes purchases of goods, by U.S. and Canadian entities covered by the GATT Agreement on Government Procurement ("GATT Code"), above $25,000 and below the GATT Code threshold.

- The FTA established a rule-of-origin for government procurement and obligated Canada to implement a bid protest system.

ACHIEVEMENTS:

- There have been no formal disputes.

- Canada supported the U.S. proposal in the GATT Code renegotiations to adopt the FTA bid protest system for Code-covered procurement.

FUTURE PROSPECTS:

- Modifications to the GATT Code will be incorporated into the FTA by agreement.

- Following the conclusion of the GATT Code renegotiations, the United States and Canada are committed to consider whether future expansion of non-discriminatory market opportunities under the FTA would be mutually beneficial. Only a small portion of each country's annual federal--and no sub-federal--procurement is available for non-discriminatory bidding by nationals of the other country. For example, the relatively limited coverage of the Government Procurement chapter of the FTA resulted in lost commercial opportunities for Canadian and U.S. companies in the ship building sector.

IMPLEMENTATION

- Canada established a bid challenge procedure, open to both U.S. and Canadian bidders of FTA-covered procurement. The U.S. General Accounting Office's bid challenge procedures were already open to all bidders.

STATUS OF SECTION 304 NEGOTIATIONS:

- See FUTURE PROSPECTS above. Telecommunications will be on the U.S. agenda for further negotiations under the FTA and/or the GATT.

BIENNIAL REPORT

SERVICES

EFFECTIVENESS

OVERVIEW:

- In general, some procedural discussions have taken place under the auspices of the FTA, while the focus of substantive discussions in this area for the U.S. and Canada since the FTA took effect has been the multilateral negotiations of the GATT Uruguay Round.

ACCOMPLISHMENTS:

- A Binational Services Working Group (SWG) was established by the Canada-United States Trade Commission in November 1989 to monitor the implementation of Chapter 14, and to consider the expansion and further liberalization of trade in services in accordance with Article 1405.

OUTSTANDING ISSUES:

- SWG discussions thus far have been organizational and preparatory in nature and have not addressed specific issues.

FUTURE PROSPECTS:

- GATT Negotiations. During 1988 and 1989, both countries were heavily engaged in the services negotiations of the GATT Uruguay Round and recognized that the outcome of those multilateral negotiations could result in liberalization beyond that achieved for services in the FTA. Following completion of the Uruguay Round, the SWG intends to study the results of those negotiations and the implications for services subject to the FTA.

- Professional Services. With specific regard to architectural services, the SWG looks forward to the completion of adoption of mutually acceptable professional standards and criteria by the Royal Architectural Institute of Canada and the American Institute of Architects under Annex 1404 of the Agreement. The SWG notes that other professional groups (e.g., landscape architects, accountants, consulting engineers) informally have expressed some interest in gaining mutual recognition in both countries through a similar process.

- Other. The SWG expects to act as a forum for early consultation on issues relevant to implementation of Chapter 14 and will attempt to find solutions and make recommendations to the Canada-United States Trade Commission.

- Separate and apart from the FTA, on October 3, 1990, the U.S. Secretary of Transportation and the Canadian Transport Minister announced their intention to enter into negotiations to seek a new "open skies" aviation agreement. Negotiations are scheduled to begin in early 1991.

IMPLEMENTATION

- Annex 1404 of the Agreement requires both Parties to review the recommendations of the Royal Architectural Institute of Canada and the American Institute of Architects regarding mutually acceptable professional standards and criteria. Annex 1404 also requires the national governments to encourage their respective provincial and state governments to adopt or amend those measures. It also requires the Parties to establish a committee for the purpose of reviewing compliance by the licensing authorities. However, the recommendations of the two societies have not yet been presented to the national governments. The American Institute of Architects wrote to the U.S. Trade Representative in February 1990, enclosing a progress report and requesting an extension of the target date specified in Annex 1404 (December 31, 1989). The U.S. Trade Representative encouraged further work toward the goal of mutual recognition and expressed interest in receiving the next report on these efforts.

STATUS OF SECTION 304 NEGOTIATIONS:

- As a prelude to any negotiations authorized under this section, the Trade Commission established in November 1989 the Services Working Group, to consider, as part of its mandate, the liberalization of trade in services in accordance with Article 1405 of the FTA.

BIENNIAL REPORT

TEMPORARY ENTRY FOR BUSINESS PERSONS

EFFECTIVENESS

OVERVIEW:

- Implementation of the immigration provisions of Chapter 15 has gone very smoothly. No major problems or disputes have arisen. Minor procedural problems have been resolved through the consultative procedure called for by Article 1503 of Chapter 15.

ACCOMPLISHMENTS:

- A U.S.-Canada working group was set up and has met for the purposes of implementation and the development of further enhancements (Article 1503).

- Initial U.S. implementation of Chapter 15 was through an interim regulation. A final regulation was published by the U.S. Immigration Service in the Federal Register on November 24, 1989. Operations Instructions pertaining to the final regulation were completed for distribution on August 31, 1990.

- Amendments for further enhancement and facilitation have been agreed upon by the working group and approved by the Commission. These amendments to Schedules 1 and 2 to Annex 1502.1 of Chapter 15 were announced in the Federal Register on February 26, 1990. Public comments on the announcement have been reviewed, and a regulation change reflecting the amendments has been drafted.

- Major ports of entry on the northern border and pre-inspection stations in Canada have designated free-trade officers who handle complex cases, train other officers, and conduct public liaison on the immigration provisions of the FTA.

- U.S. government officials (both national and local) have participated in forums to inform the public, and the legal and business communities, on the immigration provisions of the FTA.

- Admission figures for Canadian citizens admitted under the FTA thus far are:

	Calendar Year 89	Calendar Year 90 (Jan-Jun)
Professionals	3,669	2,488
Intra-company transferees	4,985	2,132
Treaty traders	232	136
Treaty investors	865	835

FUTURE PROSPECTS:

- A recommendation for further additions of professions to Schedule 2 was prepared by the working group and approved by the Trade Commission in October 1990. An announcement for the Federal Register should be finalized and published for public comment early in calendar year 1991.

- The working group for Chapter 15 plans to publish a joint information brochure within the next year.

IMPLEMENTATION

- Formation of the U.S.-Canada Chapter 15 working group.

- Publication of the final FTA immigration regulations on November 24, 1989.

- Publication of proposed amendments to Chapter 15 on February 26, 1990.

BIENNIAL REPORT

INVESTMENT

EFFECTIVENESS

OVERVIEW:

- The FTA has been effective in liberalizing Canadian investment policy toward U.S. investors and in increasing investor certainty in both the United States and Canada.

ACCOMPLISHMENTS:

- The FTA has reduced the amount of Canadian screening of, and imposition of performance requirements on, acquisitions in Canada by U.S. investors. For example, except in the energy and cultural sectors, as of January 1991, Canada no longer will screen transactions of U.S. investors involving: (1) a direct acquisition or sale of a Canadian firm with less than C$ 100 million in assets, and (2) an indirect acquisition or sale (resulting from buying or selling the foreign parent firm) of a Canadian firm with less than C$ 250 million in assets.

- In addition, Canada no longer imposes local content, import substitution, or export requirements on transactions by U.S. investors still subject to screening. For transactions not subject to screening, Canada does not have leverage to impose any performance requirements. The FTA also prohibits any new local equity or forced divestiture requirements.

OUTSTANDING ISSUES:

- The cultural sectors (publishing, films, music, videos, broadcasting and cable TV) are exempt from most provisions of the investment chapter. Nevertheless, the chapter assures that, if Canada forces divestiture of a Canadian firm indirectly acquired in a cultural sector, Canada will offer to buy the firm from the U.S. investor at fair open market value, as determined by an independent, impartial assessment. Article 2005 of the FTA also provides that a party to the agreement may take measures of equivalent commercial effect in response to measures taken in the cultural industries that would be inconsistent with the FTA were there no general exemption for cultural sectors. On occasion, Canadian actions to enforce the investment restrictions in the cultural sectors create irritants in bilateral relations.

FUTURE PROSPECTS:

- The United States proposed the establishment of an Investment Working Group under the FTA, to which the Canadian Government was unable to agree. The U.S. Government will continue to pursue the proposal to discuss further investment policy liberalization.

IMPLEMENTATION

- There was no need to modify U.S. laws or policies to implement the FTA investment chapter. Where there have been legislative proposals that would have infringed U.S. obligations, these have been withdrawn or modified as necessary.

- In response to Canada's concerns about several proposed U.S. state government measures that could discriminate against foreign investors, U.S. Government officials contacted the states concerned. Consequently, discriminatory measures were not adopted.

- Canada amended the Investment Canada Act and regulations to raise the minimum thresholds for screening acquisitions or sales by U.S. investors.

STATUS OF SECTION 304 NEGOTIATIONS:

- In the context of 1989 and 1990 meetings of the Canada-United States Trade Commission, USTR requested Canada to agree to establish a working group on investment issues. The purpose would be to discuss investment issues listed in section 304 of the FTA Implementation Act. Canada declined the U.S. request, but investment discussions have proceeded multilaterally in the Uruguay Round of Multilateral Trade Negotiations and the OECD review of its investment instruments.

BIENNIAL REPORT

FINANCIAL SERVICES

EFFECTIVENESS

OVERVIEW:

- The Financial Services chapter of the FTA is being fully implemented, and U.S. firms have taken advantage of the liberalization provided therein.

- Chapter 17 establishes a separate consultative mechanism between the U.S. Department of the Treasury and the Canadian Finance Department to resolve disputes and to oversee financial market liberalization.

ACCOMPLISHMENTS:

- In the past year, the Treasury Department and the Finance Department have held informal consultations on liberalization and issues of mutual interest.

- As the Canadian Government implements proposals for liberalization and regulatory reform of the financial sector, U.S. firms will benefit. Permission to acquire or establish securities subsidiaries is granted to U.S. banks established in Canada on substantially the same terms as Canadian banks.

- A U.S. non-bank financial institution has been allowed to establish a bank under Canadian law.

OUTSTANDING ISSUES:

- Although not a form of discrimination, U.S. commercial banks face competitive difficulties from the requirement that they operate in Canada as a subsidiary rather than a branch of the parent bank. Lending limits are based upon the capital of the subsidiary, rather than on that of the parent bank.

- The lengthy approval process for U.S. non-bank financial institutions to establish a bank in Canada may have resulted in one U.S. firm dropping its request to enter the market. However, as noted above, another major U.S. non-bank financial institution succeeded in establishing a bank. The problem is addressed also in the proposals for financial regulatory reform.

FUTURE PROSPECTS:

- The Treasury Department will continue to use the consultative mechanism as appropriate to address possible problems and attempt to ensure that U.S. securities firms, banks and other financial institutions in Canada enjoy national treatment and competitive opportunities equal to those of their Canadian counterparts.

IMPLEMENTATION

- See accomplishments above.

BIENNIAL REPORT

INSTITUTIONAL PROVISIONS

EFFECTIVENESS

OVERVIEW:

- Chapter 18 establishes the FTA's institutional provisions, creating the Canada-United States Trade Commission (the Commission) to supervise the implementation of the FTA, to resolve disputes, and to oversee its further elaboration.

- Chapter 18 provisions also apply with respect to the binational panel settlement of disputes regarding the interpretation or application of the provisions of the FTA other than financial services and matters covered by Chapter 19.

- The dispute settlement mechanisms of Chapter 18 have been used effectively and both countries have been pleased with the usefulness of the Commission in overseeing the operation of the Agreement. We have used the consultation procedures productively for a number of issues and the parties have been able to avoid bringing disputes before a panel in all but two instances.

ACCOMPLISHMENTS:

- The Commission has met four times so far, managing and resolving disputes, facilitating implementation, and providing a forum for negotiating further liberalization of the trading relationship.

- There have been two Chapter 18 panels convened to date, both of which ruled in favor of the U.S. The first panel ruled on October 16, 1989, that the Canadian measure, requiring salmon and roe herring caught off Canada's West Coast be landed in Canada before exportation, amounted to an export restriction inconsistent with the FTA. Taking into account the panel finding, the U.S. and Canada negotiated an interim solution to the dispute in February 1990. The second panel decided on May 25, 1990, that a 1989 amendment to the Magnuson Act, prohibiting the marketing in interstate and foreign commerce of lobsters below the U.S. federal minimum size, did not constitute an illegal import restriction under the FTA.

OUTSTANDING ISSUES:

- At the present time there are no Chapter 18 panels in operation. Of the issues on which we have consulted with the Government of Canada under Chapter 18, only the plywood (see section on plywood standards) and alcoholic beverage (see section on alcohol) issues remain active. Work is proceeding in both these areas.

FUTURE PROSPECTS:

- While the institutional provisions of the FTA have been working well, there remains room for improvement. Both Governments have been discussing a number of ways in which the dispute settlement panel process can be made more predictable and effective.

IMPLEMENTATION

- Biannual meetings of the Canada-United States Trade Commission in 1989 and 1990.

- Convening of the two Chapter 18 panels to consider disputes under the FTA in 1989 and 1990.

- Chapter 18 consultations during 1989 and 1990 on wool, plywood standards, alcoholic beverages, cable retransmission, and fruit and vegetable grade labelling.

STATUS OF SECTION 304 NEGOTIATIONS:

- Canadian Controls on Fish: As a result of the implementation of the Canadian West Coast landing requirements for unprocessed salmon and roe herring, the U.S. requested the formation of a Chapter 18 panel to consider the consistency of those measures with the FTA and the GATT. The panel found in favor of the United States, and Canada has implemented measures to increase U.S. access to these fish.

BIENNIAL REPORT

AD/CVD DISPUTE SETTLEMENT

EFFECTIVENESS

OVERVIEW:

- Binational panel review of anti-dumping and countervailing duty cases under Chapter 19 of the FTA has been a success. With two years of experience using the innovative system established by the FTA, the process for resolving bilateral disputes is running smoothly.

ACCOMPLISHMENTS:

- Fifteen cases have been filed to date, of which ten have been resolved. The majority of panel decisions have been unanimous, although individual panelists have written dissenting opinions in two recent cases. The FTA panel review process has proven to be an expeditious and impartial mechanism for resolving bilateral AD/CVD disputes.

OUTSTANDING ISSUES:

- The two governments are monitoring the rules of procedure to ensure that the binational panel review process functions smoothly. Both sides will make modifications where necessary.

FUTURE PROSPECTS:

- Several cases are currently pending. A decision in the case involving the U.S. Department of Commerce, International Trade Administration's (ITA) administrative review of an anti-dumping duty order on paving parts is due in mid-year 1991. Decisions in two other cases, which involve the Canadian International Trade Tribunal's administrative review of an anti-dumping duty order on induction motors from the United States and the ITA's scope determination covering an anti-dumping duty order on oil country tubular goods, are due in September 1991. Concerning U.S. countervailing duties on Canadian pork, binational panels have remanded again to the ITC its injury determination in the case and are reviewing the ITA's upholding of its subsidy determinations on remand. The ITC decision on remand is due February 12 and a panel decision on the ITA determination is expected March 7. In addition, ITA has recently completed administrative reviews of two dumping cases involving Canadian goods (oil country tubular goods

and sheet piling), which are expected to be appealed to binational panels.

IMPLEMENTATION

- The panel rules of procedure were modified during 1990 to ensure that the panel review process operates in the most effective manner. The U.S. FTA Implementation Act was amended and clarified to ensure that the Act was consistent with the letter and spirit of the FTA.

BIENNIAL REPORT

SUBSIDIES WORKING GROUP

EFFECTIVENESS

OVERVIEW:

- The Subsidies Working Group, which was established under FTA Article 1907, is responsible for seeking to develop more effective rules and disciplines concerning the use of government subsidies and to develop a substitute system of rules for dealing with unfair pricing (dumping) and government subsidization. The Working Group has met twice and both sides are currently in the data collection phase.

ACCOMPLISHMENTS:

- The Working Group met on November 15, 1989, and on May 8, 1990.

- At the first Working Group meeting, both sides agreed to begin a preparatory phase of consultations and data collection/analysis which would precede tabling of proposals. The end of the preparatory phase is scheduled to coincide with the conclusion of the Uruguay Round subsidies negotiations.

- The U.S. has undertaken consultations and solicited advice from Congress, private sector advisors (ISACs), state Governors, the National Governors Association, the National Conference of State Legislatures, the National Association of State Development Agencies, and the Council of State Governments. We have also requested advice and begun consultations with private sector organizations.

OUTSTANDING ISSUES:

- The outcome of the Uruguay Round negotiations on subsidies and trade remedies will have important implications for progress on this issue.

FUTURE PROSPECTS:

- The Working Group will meet again following the conclusion of the Uruguay Round of Multilateral Trade Negotiations. If it appears that the Uruguay Round negotiations will not be successfully concluded in the immediate future, the Working Group will reassess its work plan.

BIENNIAL REPORT

STATUS REPORT OF THE BINATIONAL SECRETARIAT

EFFECTIVENESS

OVERVIEW:

- The Secretariat has met all legal, regulatory, procedural, budgetary and administrative requirements imposed upon it, and has effectively administered all binational panel review referred to it. Both the U. S. and Canadian Governments are pleased with the operation of these dispute settlement mechanisms.

ACCOMPLISHMENTS:

- To date fifteen cases have been filed under Chapter 19 in the United States and Canada, ten of which have been settled by decision of panels or were terminated. Neither government has requested binational panel review of statutory amendments to their AD/CVD laws. No Extraordinary Challenge Committees have been convened to review binational panel decisions. The fact that the unique process negotiated by the Parties functions quickly and effectively has been noted and commented upon favorably both in the press and by the participants themselves.

OUTSTANDING ISSUES:

- There are a few minor technical problems contained in the Rules of Procedure that will require correction. Although the problems have not impeded the efficacy of the process, the amendments that will be proposed will clarify the ambiguities and confirm the ad hoc practices that have developed to rectify the defects.

FUTURE PROSPECTS:

- The FTA panel process is expected to continue to provide an efficient, transparent and fair mechanism to adjudicate disputes referred for panel review.

IMPLEMENTATION

- The Department of Commerce has provided funding, office space, equipment and personnel for the Secretariat, and pays for the operation of binational panels under Chapter 18 (general disputes).

- USTR provides funds for the payment of all Chapter 19 (AD/CVD) binational panel expenses.

- The U.S. and Canadian Sections of the Secretariat have established a filing system, a process for tracking expenditures, and a computerized docketing system for cases filed with the Secretariat.

BIENNIAL REPORT

INTELLECTUAL PROPERTY RIGHTS

EFFECTIVENESS

OVERVIEW:

- The FTA addresses the issue of intellectual property rights in Article 2004 of Chapter 20, specifying that the United States and Canada will cooperate in the Uruguay Round of multilateral trade negotiations and in other forums to improve protection of intellectual property.

ACCOMPLISHMENTS:

- Both countries have consulted regularly on intellectual property issues in the Uruguay Round. Because of Canada's existing regime involving compulsory licensing, Canada and the United States have differed on the obligations to be contained in the Trade Related Intellectual Property (TRIP) agreement.

OUTSTANDING ISSUES:

- The United States is opposed to the provisions in Canada's Patent Law which permit the compulsory licensing of pharmaceutical products. The United States has articulated this position several times to the Government of Canada during the past several years. The U.S. Government placed, and has maintained, Canada on the special 301 watch list, partly as a result of Canada's continued compulsory licensing. Consultations with the Canadian Government during this period have indicated that they do not envision making changes to their Patent Law in the near term, although some adjustments could be possible as a result of the TRIP negotiations of the Uruguay Round.

FUTURE PROSPECTS:

- The U.S. Government will continue to raise the issue of compulsory licensing for pharmaceutical products with the Canadian Government.

IMPLEMENTATION

- The U.S. Government in 1989 placed Canada on the special 301 watch list in response to its continued compulsory licensing of patents for pharmaceutical products.

- The U.S. and Canadian Governments have consulted regularly in the Uruguay Round of multilateral trade negotiations in seeking improved protection of intellectual property.

STATUS OF SECTION 304 NEGOTIATIONS:

- To date, the U.S. Government has not initiated negotiations on these issues, as they have been under consideration in the Uruguay Round.

BIENNIAL REPORT

RETRANSMISSION RIGHTS

EFFECTIVENESS:

OVERVIEW:

- Article 2006 requires each government to establish an "equitable remuneration" system for cable distribution of TV programming picked up from "distant" TV broadcasts originating in the other country. Article 2006 allowed Canada until January 1, 1990 to establish an equitable remuneration system for cable distribution of U.S. programming.

- Article 2006 further requires the two governments to provide full copyright protection for TV programming from the other country that is shown on cable either on a delayed basis or in altered form.

- Article 2006 also provides for the establishment of a joint advisory committee to review outstanding issues related to retransmission rights, following the implementation of the Canadian compensation system.

ACCOMPLISHMENTS:

- On October 2, 1990, the Canadian Copyright Board announced its decision setting copyright royalties to be paid by cable companies and other retransmitters for carrying "distant" Canadian and American television and radio signals in 1990 and 1991. The decision is retroactive to January 1, 1990.

- It is estimated that these royalties will generate total payments of just over $C50 million per year, of which a substantial portion should go to copyright owners of programming produced in the United States. The Canadian Cabinet has declined to overturn or modify on appeal the Board's decision on the total amount of royalties to be paid.

- Canada failed to adhere to the January 1, 1990, deadline for implementation of the compensation program due to the technical complexity of the issues presented to the Copyright Board. The United States did not seek to enforce its right with regard to the deadline in view of assurances by the Canadian Government that the compensation to be awarded by the Board would be made retroactive to January 1, 1990.

- Canada extended copyright protection to U.S. television programming distributed by cable on a delayed or altered basis.

OUTSTANDING ISSUES:

- The U.S. intends to monitor the implementation of the Canadian Copyright Board's decision on retroactive compensation, as well as the impending judicial review, initiated by the Canadian Cable Television Association, of the Board's decision in Canadian federal court.

- The United States invoked the consultation provisions of FTA Chapter 18 regarding Canada's application of Article 2006 with respect to U.S. programming contained in broadcasts from certain U.S. television transmitters located close to the Canadian border. In the U.S. view, Canadian regulations incorrectly exclude such programming from Canada's equitable remuneration scheme.

- The United States has suspended chapter 18 proceedings on this subject, pending the results of the decision of the Copyright Board.

- Shortly after the United States requested chapter 18 consultations, Canada requested consultations regarding U.S. compliance with Article 2006. Canada claimed that the United States does not provide for adequate compensation of Canadian French Language programming retransmitted by cable in the United States and has refused to require equitable remuneration for certain programming that Canadian firms wish to have distributed by cable in the United States. The Canadian Government has not brought these matters to a dispute settlement panel under Chapter 18 of the FTA.

FUTURE PROSPECTS:

- Once the Canadian copyright royalty payment program is satisfactorily in place, the two governments will need to consider the establishment of the joint advisory committee on cable retransmission issues provided for in Article 2006(4).

IMPLEMENTATION:

- See accomplishments above.

BIENNIAL REPORT

PLYWOOD STANDARDS

EFFECTIVENESS

OVERVIEW:

- Significant progress has been made toward the development of a common plywood standard that will permit the use of CD grade plywood in both countries. The common standard is expected to be in place in both countries within approximately a year. U.S. producers will then have access to the Canadian market, and FTA tariff reductions on plywood and related items can be initiated. Tariff reductions will not commence until the common standard is sufficiently incorporated into the U.S. and Canadian building codes.

ACCOMPLISHMENTS:

- The FTA-mandated Binational Committee on Plywood Standards (BNC) has developed a draft common standard and forwarded it to the National Institute of Standards and Technology (NIST) of the U.S. Commerce Department, and the Canadian Standards Association in Canada. Once it is approved by these bodies, it will be incorporated into building codes in both countries.

FUTURE PROSPECTS:

- There are no obstacles foreseen to the final and successful completion of the Committee's objective. The common standard could be in place in both countries within approximately a year.

IMPLEMENTATION

- Both countries appointed members to the Binational Committee on Plywood Standards, and are providing it policy and program support.